

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION AT KNOXVILLE**

IN RE:

ROY JEFFERESON SIMS, III and)	Case No.: 3:16-bk-30750-SHB
BRIDGETTE DANIELLE SIMS)	Chapter 7
Debtors)	
BRUCE D. TROUT, JR.)	
Plaintiff,)	
vs.)	Adv Proc. No.:
ROY JEFFERESON SIMS, III)	
Defendant.)	

COMPLAINT

I. Introduction

1. This is an action to except from discharge a debt owed by the Defendant to the Plaintiff pursuant to 11 U.S.C. § 523(a)(9).
2. This action is also filed to enforce and to implement other provisions of the United States Bankruptcy Code and Rules related thereto.

II. Jurisdiction and Venue

3. Jurisdiction is conferred on this Court pursuant to the provisions of 28 U.S.C. § 1334 in that this proceeding arises in and is related to the above-captioned Chapter 7 case under Title 11 and concerns the dischargability of a debt scheduled therein.
4. This Court has both personal and subject matter jurisdiction to hear this case

pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(b)(2).

5. This matter is primarily a core proceeding and therefore, the Bankruptcy Court has jurisdiction to enter a final order. However, in the event this case is determined to be a non-core proceeding, then and, in that event, the plaintiffs consent to the entry of a final order by the Bankruptcy Judge.
6. Venue lies in this District pursuant to 28 U.S.C. § 1391(b).

III. Parties

7. The Plaintiff in this case is of the full age of majority, a resident, and domiciled in Sevier County, Tennessee.
8. The Defendant is a debtor herein under Chapter 7 of Title 11 of the United States Code in Bankruptcy Case No. 3:16-bk-30750-SHB filed March 11, 2016.

IV. Factual Allegations

9. On October 3, 2013 the Plaintiff was injured in an automobile accident which was caused by the intoxication of the Defendant.
10. A lawsuit was filed by the Plaintiff against the Defendant and the Defendant's spouse in the Circuit Court for Sevier County, Tennessee, Civil Action No. 14-CV-68-IV.¹
11. The Plaintiff and the Defendant Mr. Simms entered into an Agreed Order and Judgment which was filed on August 7, 2015, that the Plaintiff was entitled to judgment in the amount of \$250,000.00 and agreed that such was non-dischargeable in bankruptcy. *Copy of Agreed Order and Judgment attached*

¹ The debtor spouse, Bridgett Simms, was dismissed from the State Court action and thus this adversary proceeding is against Mr. Simms only.

hereto as Exhibit 1.

12. The Circuit Court Judge, Hon. O. Duane Sloan made a finding of fact that the accident at issue in this matter was primarily caused by the intoxication of Roy J. Simms, III. *See Ex. 1.*

WHEREFORE, the plaintiff prays that

1. That summons issue and be served upon the defendant, together with a copy of the complaint and that the Defendant be required to answer within the time required by law.
2. That upon the hearing of this cause the Plaintiff be granted a judgment against the Defendant in the amount of two-hundred and fifty-thousand dollars (\$250,000.00) and declaring that the Judgment entered against the Defendant in the Circuit Court for Sevier County, Tennessee, Civil Action No. 14-CV-68-IV be non-dischargeable pursuant to 11 U.S.C. § 523(a)(9).
3. That the court tax all costs of this adversary proceeding to the Defendant.
4. That the plaintiff have such other and further relief as the Court may deem just and proper.

04/26/16

Respectfully submitted,

BRUCE D. TROUT, JR.

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